



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,877	01/16/2004	John Boyland	0403-4107	8433

27123 7590 07/05/2006

MORGAN & FINNEGAN, L.L.P.  
3 WORLD FINANCIAL CENTER  
NEW YORK, NY 10281-2101

EXAMINER

SHARP, JEFFREY ANDREW

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/759,877	Applicant(s) BOYLAND ET AL.	
	Examiner Jeffrey Sharp	Art Unit 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,8,10,11 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9,12-15 and 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

[1] This action is responsive to Applicant's request for continued examination filed on 12 April 2006 with regard to the final office action mailed on 02 March 2006.

#### ***Status of Claims***

[2] Claims 1-19 and 22-25 are pending. Claim 20 is cancelled. Claims 5, 6, 8, 10, 11, 16, 17, 18, and 19 are withdrawn from further consideration.

#### ***Claim Objections***

[3] Claim 14 was previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 12 April 2006. Accordingly, the objection to claim 14 has been withdrawn.

#### ***Maintained Claim Rejections - 35 USC § 102***

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3677

[5] Claims 1-4, 7, 9, 12, 20, and 21 (as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Grieser et al. US-5,641,240.

In short, Grieser et al. teach a Z-type fastener with a Z-shaped profile, used in a housing (94)/cover (92) assembly, said Z-type fastener having:

a base extension tab (76) being provided with a surface (72) configured to contact an interior wall of a fastening aperture (98) within said housing,

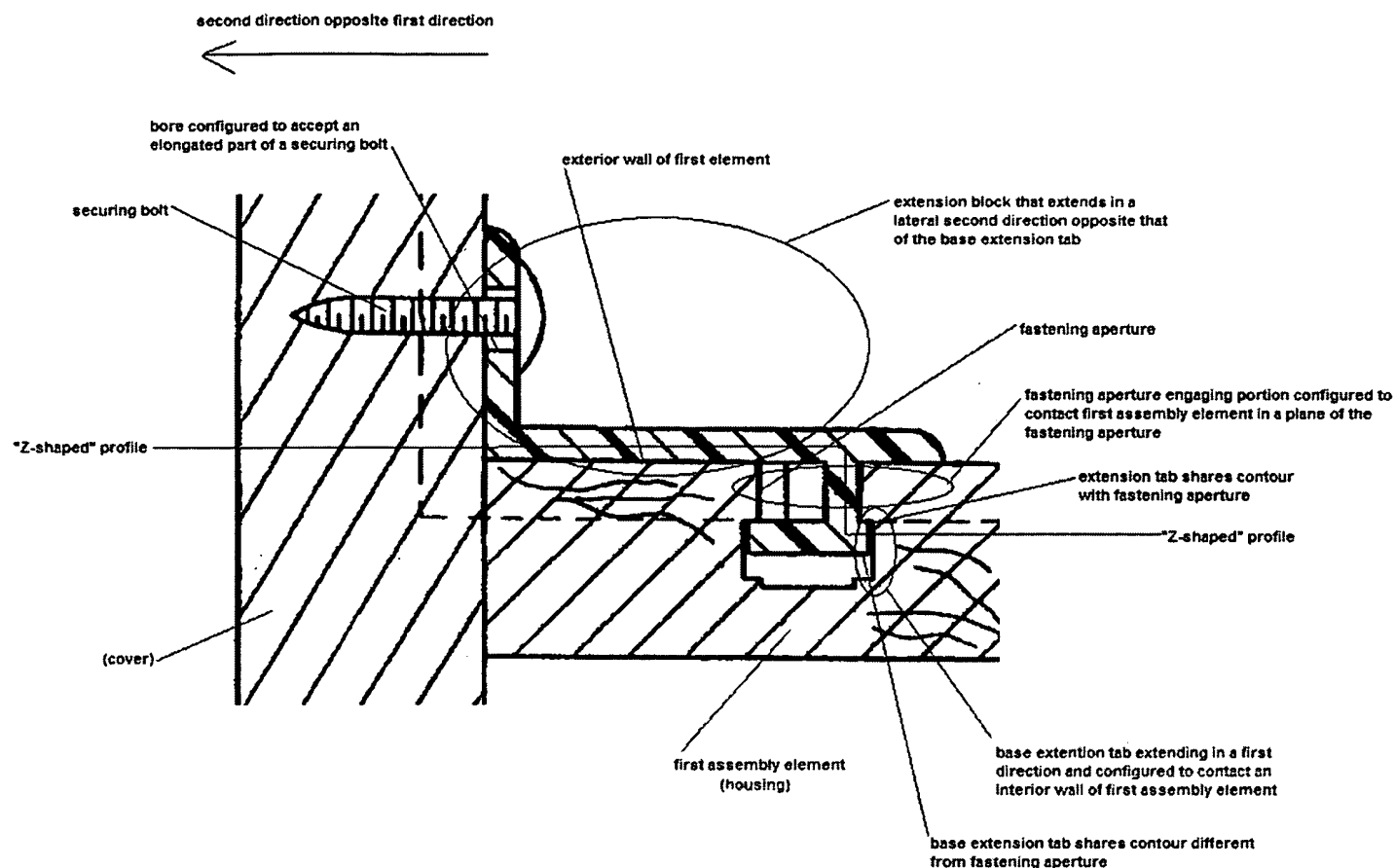
a fastening aperture engaging portion (64,80) (e.g., pressure application edge),

an extension block/body (12,18,20,30) being provided with a surface (30) configured to contact an exterior wall of said housing;

wherein the extension block of the Z-type fastener has a bore (14) configured to accept an elongated part of a securing bolt/body (100), and

wherein the extension block extends in a lateral direction opposite that of the base extension tab.

Art Unit: 3677



Grieser et al. US-5,641,240

[6] Claims 1-4, 12, 14, 15, 20, and 21 (as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Palumbo US-3,970,399.

In short, Palumbo teaches a Z-type fastener (10) with a Z-shaped profile, used in a housing (13)/cover (12) assembly (11), said Z-type fastener having:

a base extension tab (20') being provided with a surface (15) configured to contact an interior wall of a fastening aperture (27) within said housing,

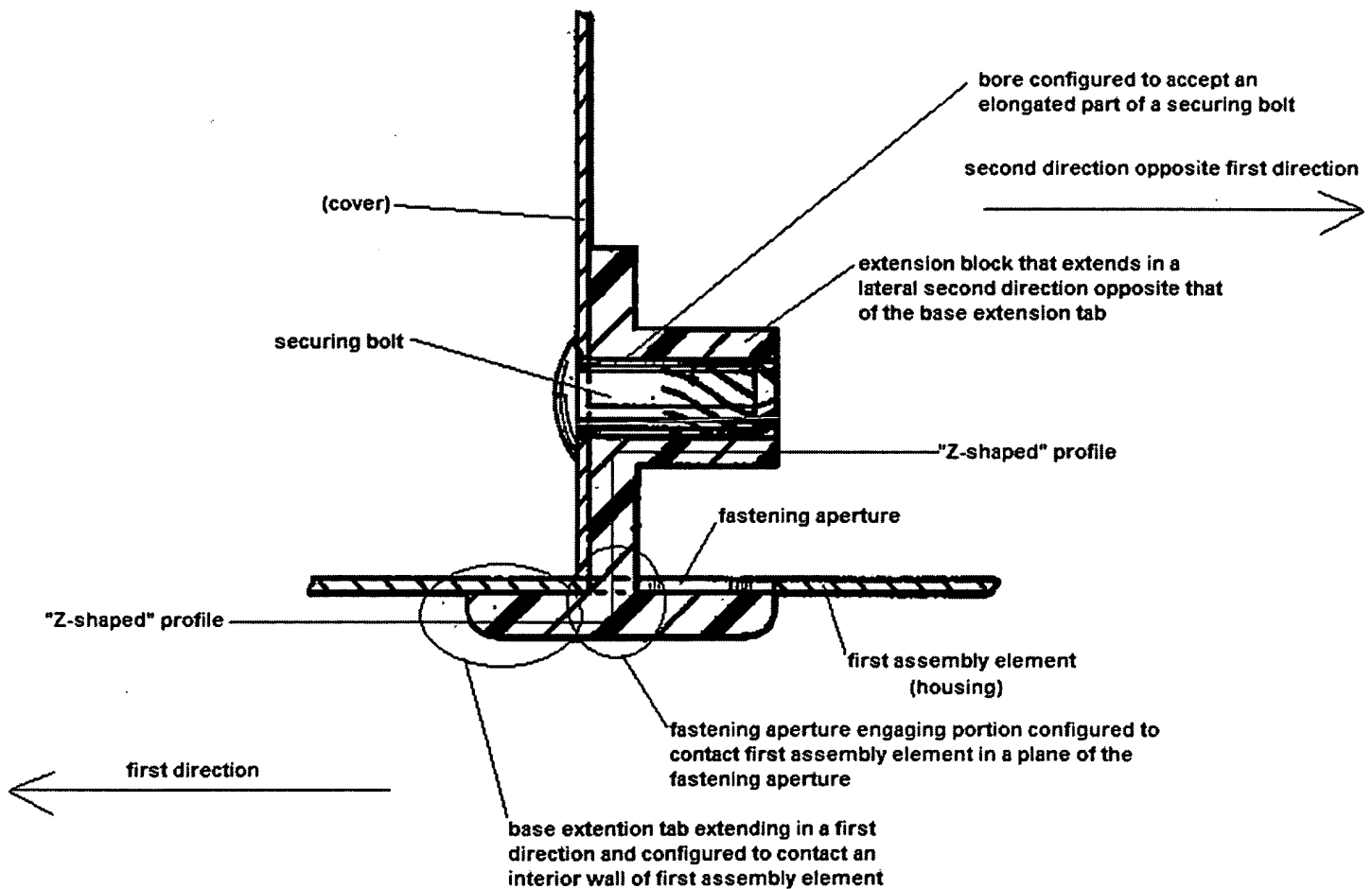
a fastening aperture engaging portion (18) (e.g., pressure application edge),

Art Unit: 3677

an extension block/body (17,23);

wherein the extension block of the Z-type fastener has a bore (24) configured to accept an elongated part of a securing bolt/body (32,33,34,35), and

wherein the extension block extends in a lateral direction opposite that of the base extension tab.



Palumbo US-3,970,399

***Response to Arguments/Remarks***

[7] Claims 1-4, 7, 9, 12, 20, and 21 were previously rejected under 35 U.S.C. 102(b) as being anticipated by Grieser et al. US-5,641,240.

Applicant's arguments/remarks with regard to this rejection have been fully considered, but are not persuasive.

Applicant does not positively claim the combination of a fastener and first assembly element. Instead, Applicant claims "A Z-type fastener...wherein when said Z-type fastener is engaged with a first assembly element...". Therefore, the limitations appearing after the word "when", are considered functional language and have not been given significant patentable weight. All arguments drawn to the interaction between Grieser et al.'s fastener and the first assembly element are moot, since no first assembly element is claimed.

Consequently, this rejection is maintained.

[8] Claims 1-4, 12, 14, 15, 20, and 21 were previously rejected under 35 U.S.C. 102(b) as being anticipated by Palumbo US-3,970,399.

Applicant does not positively claim the combination of a fastener and first assembly element. Instead, Applicant claims "A Z-type fastener...wherein when said Z-type fastener is engaged with a first assembly element...". Therefore, the limitations appearing after the word "when", are considered functional language and have not been given significant patentable weight. All arguments drawn to the interaction between Palumbo's fastener and the first assembly element are moot, since no first assembly element is claimed.

Consequently, this rejection is maintained.

Applicant's arguments with respect to the rejection of claim 13 have been fully considered and are persuasive. Therefore, the rejection of claim 13 as being anticipated by Palumbo has been withdrawn.

*New Grounds of Rejection*

*Claim Rejections - 35 USC § 112*

[9] The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[10] Claims 9, 12, 14, 15, 21, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 has insufficient antecedent basis for the limitation "the wall". It is currently unclear whether Applicant is referring to the "inner wall" or the "exterior wall". The claim has been treated as it is definite.

As for claims 12, 21, and 25, the word "Z-type" renders the scope of the claim indefinite, because it is unclear whether or not the limitation is part of the claimed invention, or if "Z-type" encompasses "S-type" or "V-type". Examiner suggests using the word "Z-shaped" to overcome this rejection. The claim has been treated as it is definite.

Claim 14 has insufficient antecedent basis for the limitation "the housing end". The claim has been treated as it is definite.

Claim 15 has insufficient antecedent basis for the limitation "the fastening aperture". The claim has been treated as it is definite.

Claim 25 has insufficient antecedent basis for "the Z-type fastener". It is not clear whether Applicant means one or the "plurality of Z-type fasteners". The claim has been treated as it is definite: "the Z-type fastener" meaning -at least one of said plurality of Z-type fasteners-.

***Claim Rejections - 35 USC § 102***

[11] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[12] Claims 1-4, 7, 9, 12, 14, 15, 21, 22, and 25 (as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Guevarra et al. US-5,059,074.

In short, and in its broadest reasonable interpretation, the Guevarra et al. reference teaches a single element Z-shaped fastener (19), configured to attach a housing end cover (28) to a housing (12,14) via a securing body (18). The fastener has a contoured base extension tab (16) having an interior application surface (@20), a fastening aperture engaging portion (24), and an extension block (22) that extends in a lateral direction opposite that of the base extension tab (16). The base extension tab (16) and extension block (22) are "configured" to apply structural support to the insides and outsides of housing (12,14). The Z-shaped fastener is arranged at a

Art Unit: 3677

distance away from the housing end cover (28) when the housing end cover (28) is secured to the housing (12,14) through the securing body (18).

[13] Claims 1-4, 7, 9, 12, 14, 21, 22, and 25 (as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkerson et al. US-3,378,806.

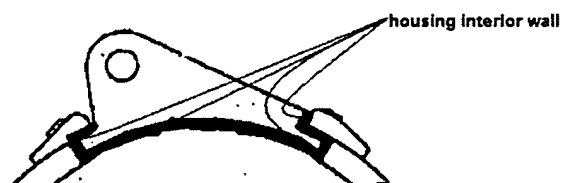
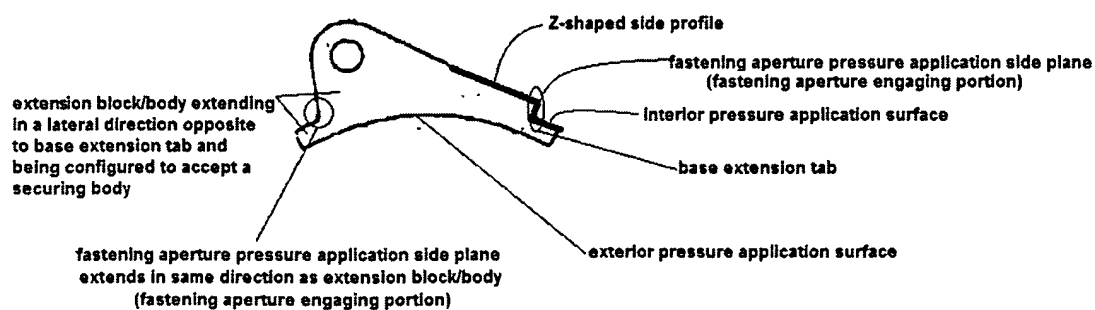
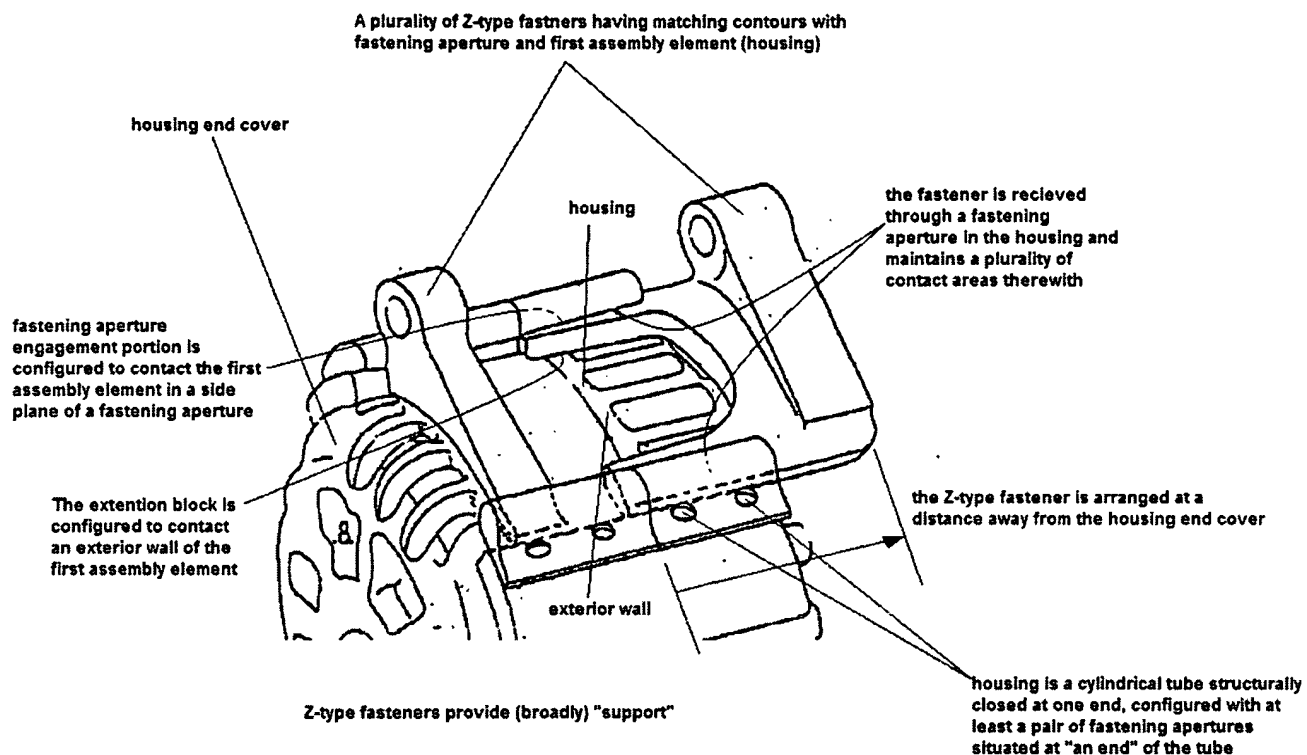
In short, and in its broadest reasonable interpretation, the Wilkerson et al. reference teaches a single element Z-shaped fastener (Figures 1-3), configured to attach a housing end cover (56) to a housing (15) via a securing body (38). The fastener has a contoured base extension tab (10), a fastening aperture engaging portion (16), and an extension block (24) that extends in a lateral direction opposite that of the base extension tab (10). The base extension tab and extension block are "configured" to apply structural support. The Z-shaped fastener is arranged at a distance away from the housing end cover (56) when the housing end cover (56) is secured to the housing (15) through the securing body (38).

[14] Claims 1-4, 7, 9, 12-15, and 21-25 (as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Gautier US-2004/0164630 (PCT filed 7.31.2002).

In short, and in its broadest reasonable interpretation, the Gautier reference teaches a single element Z-shaped fastener (16), configured to attach a housing end cover (2) to a housing (3) via a securing body (not shown). The fastener has a contoured base extension tab (opposite 17), a fastening aperture engaging portion (17), and an extension block (18) that extends in a lateral direction opposite that of the base extension tab. The base extension tab and extension block are "configured" to apply structural support to the assembly. The Z-shaped fastener is

Art Unit: 3677

arranged at a distance away from the housing end cover (2) when the housing end cover (2) is secured to the housing (3) through the securing body (not shown, not positively claimed).



***Claim Rejections - 35 USC § 103***

[15] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[16] Claims 23 and 24 (as they are understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Guevarra et al. US-5,059,074.

In short, Guevarra et al. teaches a Z-shaped fastener satisfying the limitations of claims 1-4, 7, 9, 12, 14, 15, 21, 22, and 25, when given their broadest reasonable interpretation. However, the Guevarra et al. reference fails to disclose expressly, the housing and housing end cover to be components of a motor assembly.

Guevarra et al. suggest that an advantageous intended use of the Z-shaped fastener is for "clamping together of objects, such as the side walls of adjoining enclosures; e.g., bays of switchgear for the electrical power distribution field".

Since the electrical power distribution field widely employs generators and motors, bays of switchgear are at least indirectly part of a (broadly interpreted) "motor assembly", because they are connected to said generators and motors.

Therefore it would not have been unobvious to modify the housing and housing end cover taught by Guevarra et al. to be parts of a (broad) "motor assembly" as an intended use. Moreover, the examiner takes the position that Guevarra et al. would not have disqualified the

Art Unit: 3677

use of their Z-shaped fastener for use with a broadly stated "motor assembly", as the reference broadly states that components (12, 14, and 28) are "objects".

***Conclusion***

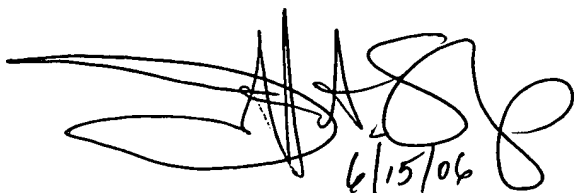
[17] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: See form PTO-892.

Applicant is encouraged to more positively claim the structural cooperation between parts of the present invention to overcome the above rejections. Applicant is also encouraged to positively claim the securing body with the limitations found in claim 13.

[18] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



6/15/06

  
ROBERT J. SANDY  
PRIMARY EXAMINER